

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

KATHRYN KNOWLTON ET AL,

Plaintiff,

v.

Case No. 2020-CV-01660

CITY OF WAUWATOSA, ET AL.

Defendants.

**DEFENDANTS' RESPONSE TO PLAINTIFFS'
FOURTH REQUEST FOR PRODUCTION, SECOND REQUEST FOR ADMISSIONS,
AND THIRD SET OF INTERROGATORIES**

Defendants, by their attorneys, Wirth + Baynard, submit the following Response to Plaintiffs' Fourth Request for Production, Second Request for Admissions, and Third Set of Interrogatories.

REQUESTS FOR THE PRODUCTION OF DOCUMENTS

DOCUMENT REQUEST NO. 1: Please provide all use of force reports written as a result of the October 7 – 12, 2020 curfew and written regarding police interaction in Wauwatosa during that time.

RESPONSE: Object to said Request as not relevant to any parties claim or defense and not reasonably calculated to lead to the discovery of admissible evidence. Subject to said objection and without waiving same, *SEE* Chemical Agent / Less Lethal Munition Deployment Logs previously produced and Bates labeled DEFS' RPD 8183 – 8194 and incident reports previously provided.

DOCUMENT REQUEST NO. 2: City of Wauwatosa please provide any directives by email, text message, letter, or communicated in any way to any/all personnel to preserve any/all City of Wauwatosa communications on any devices used for work purposes during, and after in

regard to the curfew from October 7 – 12, 2020.

RESPONSE: Object to said Request as not relevant to any parties claim or defense and not reasonably calculated to lead to the discovery of admissible evidence. Further object that this information is protected by attorney-client and/or work product privilege.

DOCUMENT REQUEST NO. 3: City of Wauwatosa please provide the cell phone bills from May 25, 2020 –October 13, 2020 for the following persons: Barry Weber’s number of (414) 651-8113; Shane Wrucke’s number of (414) 688-0079; Luke Vetter’s number of (414) 335-4806 and; Martin Keck’s number of (414) 243 -2520.

RESPONSE: Object to said Request as not relevant to any parties claim or defense and not reasonably calculated to lead to the discovery of admissible evidence. Subject to said objection and without waiving same, Defendants are attempting to obtain said records and if they exist, defendants will timely provide those to plaintiffs.

DOCUMENT REQUEST NO. 4: City of Wauwatosa please provide the cell phone bills from May 25, 2020 – present for Dominick Ratkowski’s number of 414-688-0079.

RESPONSE: Object to said Request as not relevant to any parties claim or defense and not reasonably calculated to lead to the discovery of admissible evidence. Subject to said objection and without waiving same, Defendants are attempting to obtain said records and if they exist, defendants will timely provide those to plaintiffs.

DOCUMENT REQUEST NO. 5: City of Wauwatosa please provide the entire Wauwatosa Municipal court records, court calendars for November 1, 2020 – March 1, 2021, and court files for Violation of Emergency Order tickets received for curfew violations that occurred in the City of Wauwatosa from October 7 – 12, 2020 for the following Plaintiffs: Jacqueline Bogenberger, Raine Cich, Tahudah Cole, Taleavia Cole, Tracy Cole, Ann Delessio-Parson, Rachel

Dulay, Erik Fanning, Jill Ferguson, Breon Foster, Destiney Jones, Katheryn Knowlton, Sonora Larson, Holly Lavora, Dana McCormick, Molly Nilssen, Carmen Palmer, Chasidy Palmer (D.O.B. 3/20/2006), Dylan Palmer (D.O.B. 10/2/2003), Leah Porter, Jose Ramirez, Aidali Rivera, William Rivera, Hector Rodriguez, Nathan Sabel, Peter Sparks, Angel Vega, Christina Vitolo-Haddad, Gabriella Vitucci, Susan Wells, Kathleen Wojnar, and Sonja Worthy.

RESPONSE: Object to said Request as not relevant to any parties claim or defense and not reasonably calculated to lead to the discovery of admissible evidence. Subject to said objection and without waiving same, *SEE* documents attached hereto and Bates labeled DEFS' RPD 029654 – 029891.

DOCUMENT REQUEST NO. 6 : City of Wauwatosa please provide the entire Wauwatosa Municipal court records and court files for the Special Event Permit Required tickets received for purported violations said to have occurred on September 30, 2020, for the following Plaintiffs: Isiah Baldwin and Rosalind Rogers.

RESPONSE: Defendant, City of Wauwatosa, is not in possession of any Wauwatosa Municipal Court records for plaintiffs Isiah Baldwin and Rosalind Rogers related to Special Event Permit tickets for purported violations that occurred on September 30, 2020.

DOCUMENT REQUEST NO. 7 : City of Wauwatosa please provide all of the emergency orders, any and all email and/or text communications in regards to those orders, that have been contemplated and/or enacted in the city of Wauwatosa from January 1, 2016 through October 13, 2020.

RESPONSE: Object to said Request as not relevant to any parties claim or defense and not reasonably calculated to lead to the discovery of admissible evidence. Subject to said objection and not waiving same, *SEE* the following documents attached and Bates labeled

DEFS' RPD 029910 – 029914.

- **March 15, 2020 Emergency Proclamation – Wauwatosa Health Department (COVID)**
- **May 30, 2020 Emergency Declaration – Curfew**
- **June 1, 2021 – Curfew Proclamation – Curfew**
- **July 23, 2020 Proclamation of Emergency – COVID-19**

DOCUMENT REQUEST NO. 8 : Please provide the shift schedules with the names of all officers who worked for the WPD during the curfew of Oct. 7 – 12, 2020.

RESPONSE: Object to said Request as not relevant to any parties claim or defense and not reasonably calculated to lead to the discovery of admissible evidence. Subject to said objection and not waiving same, *SEE* Wauwatosa Police Department Shift Schedule attached and Bates labeled DEFS' RPD 029892 – 029909.

DOCUMENT REQUEST NO. 9 : Please provide the persons who are part of the following list serv groups who had access to the Protestor List as identified by Jalal Ali on December 16, 2021 by way of his interrogatory: GS-PD-Bureau: Write, PDFFolder_Read_DetectiveGS group: Read, PDFFolder_Write_DetectiveGS group: Write, GS_PD-SOG: Write, Administrators Built-in Local Security Group: Full Control, Bureau_WS (generic account for conference PC in detective bureau), SOG Spare (Generic Account for device no longer in use), and PD Booking.

RESPONSE: Object to said Request as not relevant to any parties claim or defense and not reasonably calculated to lead to the discovery of admissible evidence. Subject to said objection and not waiving same, *SEE* Defendants' Amended Response to Plaintiffs' Second Request for Interrogatories, Interrogatory No. 1 dated December 21, 2021, specifically Exhibit A that provides the "group" or Access Type (i.e. GS_PD-Bureau or GS_PD-SOG) and the individuals name.

REQUEST FOR ADMISSIONS

1. City of Wauwatosa admit that the City of Wauwatosa received federal funding in 2020.

RESPONSE: Admit.

2. City of Wauwatosa admit that the officer pictured below is WPD officer Michael McDermott.



RESPONSE: Deny.

3. Dennis McBride admit that you unconstitutionally declared the curfew on October 7 – 12, 2020.

RESPONSE: Deny.

4. City of Wauwatosa admit that Dennis McBride was the final policymaker in declaring the curfew in the City of Wauwatosa from October 7 – 12, 2020.

RESPONSE: Admit.

REQUEST FOR INTERROGATORIES

1. City of Wauwatosa identify all persons who were the final policymaker(s) for the

September 30, 2020 emergency proclamation (attached 093020 Proclamation of Emergency DEFS RFD Bates 000001 – 000002) and the curfew in the City of Wauwatosa from Oct 7 - 12, 2020?

RESPONSE: Mayor Dennis McBride.

2. City of Wauwatosa describe in detail the time, manner, and circumstance by which the curfew from October 7 – 12, 2020 in the City of Wauwatosa came about including all of the documents created, all the persons consulted, when they were consulted, why were they were [sic] consulted, and the result of the consultations.

RESPONSE: Objection. This Interrogatory calls for privileged information within the attorney-client privilege and that it seeks information that is in the attorney's work product. Further object that the Interrogatory is vague as to the term “circumstances by which” and “came about.” Subject to and without waiving the foregoing objections, Mayor Dennis McBride testified during a deposition on July 26, 2021, that he consulted with the following individuals: Milwaukee Mayor Tom Barrett, Chief of Staff for Governor Evers Maggie Gau, City of Wauwatosa Administrator James Archambo, City Attorney Alan Kesner, WPD Captain Luke Vetter, WPD Chief Barry Weber, General Paul Knapp, and Deputy City Administrator of the City of Wauwatosa Melissa Weiss. As a result, the Emergency Proclamation dated September 30, 2020, declared a curfew. That Proclamation was not issued, and did not go into effect, until October 7, 2020. SEE also the Emergency Proclamation and McBride deposition transcript regarding additional details.

3. Dennis McBride please describe in detail all communications you had with Barry Weber regarding the curfew in the City of Wauwatosa from October 7 – 12, 2020 including all statements made by Mr. Weber to you.

RESPONSE: Objection. This Interrogatory is vague as to the timing of the “communications.” Without waiving that objection, I can state that, as I testified during my deposition on July 26, 2021, I do not recall the specifics of communications I had with Chief Weber leading up to the curfew in the City of Wauwatosa from October 7-12, 2020, other than that the communications likely occurred on or after September 17, 2020, and that he recommended a curfew. I might have spoken with Chief Weber about District Attorney John Chisholm’s decision coming out around October 7, 2020. *SEE* McBride deposition transcript for additional details on communications with Chief Weber (pages 27- 28, 30-38, 51, 60, 63, 66 and 75).

4. City of Wauwatosa please provide the legal authority for the final policy maker to have invoked the curfew in Wauwatosa from October 7 – 12, 2020.

RESPONSE: Objection. This Interrogatory calls for privileged information within the attorney-client privilege and it seeks information that is in the attorney's work product. Subject to and without waiving the foregoing objections, the Emergency Proclamation cites to the authority granted in Wis. Stat. §323.14 and §323.11.

5. City of Wauwatosa please describe the alternative places where people could invoke their 1st Amendment right to protest within the city of Wauwatosa on October 7 - 12, 2020 each day between the hours of 7p.m. though 5:59a.m. and how that was communicated?

RESPONSE: Objection. This seeks information subject to attorney client privilege and work product. Subject to and without waiving the foregoing objections, the curfew only prohibited pedestrian and vehicular traffic on Wauwatosa streets between the hours of 7:00 p.m. and 5:59 a.m., and as such people could invoke their 1st Amendment rights during those hours many ways including on private property, on social media, or other online platforms.

Moreover, the curfew did not prohibit protests during daytime hours during the weekdays or on the weekend. The Proclamation of Emergency communicated what was prohibited during the curfew hours and the Proclamation of Emergency was posted on the City's website and distributed to the mass media for the widest possible distribution.

6. City of Wauwatosa please describe the circumstances and every instance an emergency proclamation that resulted in a curfew has been enacted or declared in Wauwatosa since January 1, 2016?

RESPONSE: Objection. This Interrogatory is not relevant to any parties claim or defense and is not limited in scope or to any relevant period of time. Subject to and without waiving the foregoing objections and as further response, there was an Emergency Declaration May 30, 2020 that resulted in a curfew – SEE DEFS’ RPD 029912 – 029913.

7. City of Wauwatosa please provide the names of the arresting officers for the following Plaintiffs who received violation of emergency order tickets for alleged violations said to have occurred on October 8, 2020 in the City of Wauwatosa: Destiney Jones and Nathan Sabel.

RESPONSE: Objection. This Interrogatory is not relevant to any parties claim or defense. Subject to and without waiving the foregoing objections and as further response,

- **Destiney Jones – Unknown. (Lt. J. Farina issued and mailed said citation – SEE Bates No. DEFS’ RPD 000121)**
- **Nathan Sabel – Unknown. There is no Accident/Incident Report on file at the Wauwatosa Police Department. Plaintiff was booked at the West Allis Police Department on said date. (SEE Bates Nos. DEFS’ RPD 003593 – 003594 previously produced)**

8. City of Wauwatosa please provide the names of the arresting officers for the following Plaintiffs who received violation of emergency orders tickets for alleged violations said to have occurred on October 9, 2020 in the City of Wauwatosa: Destiney Jones, Nathan Sabel,

Anne Deassio-Parson, Lazarito Matheu, William Rivera, Aidali Rivera, and Hector Rodriguez.

RESPONSE: Objection. This Interrogatory is not relevant to any parties claim or defense. Subject to and without waiving the foregoing objections and as further response,

- **Destiney Jones – There is no record of a citation issued to Destiney Jones from the Wauwatosa Police Department on October 9, 2020.**
- **Nathan Sabel – There is no record of a citation issued to Nathan Sabel from the Wauwatosa Police Department on October 9, 2020.**
- **Anne Delassio-Parson – Unknown. (WPD Officer D. Schleis issued the citation – *SEE* Bates No. DEFS' RPD 028721 previously produced)**
- **Lazarito Matheu – Unknown. (WPD Officer D. Schleis issued the citation – *SEE* Bates No. DEFS' RPD 000674 previously produced)**
- **William Rivera – Unknown. (WPD Officer D. Schleis issued the citation – *SEE* Bates No. DEFS' RPD 000690 previously produced)**
- **Aidali Rivera – Unknown. (No Arrest/Incident Report on file at the Wauwatosa Police Department) (WPD Lt. Farina issued the citation – *SEE* Bates No. DEFS' RPD 000688 previously produced)**
- **Hector Rodriguez – Unknown. (WPD Officer D. Schleis issued the citation – *SEE* Bates No. DEFS' RPD 028816 previously produced)**

9. Dominick Ratkoski, please answer the below for the following Plaintiffs :Andrew Aaron, Robert Agnew, Kamila Ahmed, Isiah Baldwin, Jacqueline Bogenberger, Lavita Booker, Rebecca Burrell, Raine Cich, Khalil Coleman, Tahudah Cole, Taleavia Cole, Tracy Cole, Steven Conklin, Lauren Cross, Erik Fanning, Jessica Fenner, Breon Foster, Christine Groppi, Gaige Grosskreutz, Joseph Hayes, Percy Hayes, Adante Jordan, Mary Kachelski, Sean Kafer, Joseph Koepp, John Larry, Alex Larson, Sonora Larson, Vaun Mayes, Molly Nilssen, Shawn Page, Carmen Palmer, Chasidy Palmer (D.O.B. 3/20/2006), Dylan Palmer (D.O.B. 10/2/2003), Oscar Concepcion Rodriguez, Rosalind Rogers, Madeline Schiweitzer, Mariah Smith, Peter Sparks, Tiffany Stark, Angel Vega, Gabriella Vitucci, Tristiana Walls, Oscar Walton, Jayden Welch, Britta Welch, Brandon Wilborn, Trisha Wilson, Kathelyn Wojnar please provide the following information :

- a. the date(s) that you obtained Plaintiffs personal information and/or highly restricted personal information from the Department of Transportation;
- b. for all the date(s) that you obtained Plaintiffs personal information and/or highly personal information from the Department of Transportation please identify the information you obtained;
- c. for all the date(s) that you obtained Plaintiffs personal information and/or highly personal information from the Department of Transportation please identify why you obtained such information;
- d. for all of the dates that you disclosed Plaintiffs personal information and/or highly personal information from the Department of Transportation please identify each person and the date that you disclosed such information;
- e. for all of the dates that you disclosed Plaintiffs personal information and/or highly personal information from the Department of Transportation please identify for each person and the date that you disclosed such information why you disclosed it.

RESPONSE:

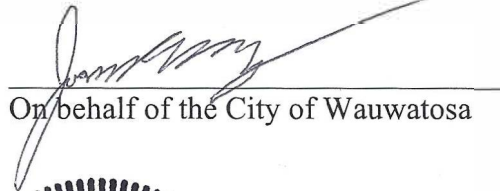
- a. **Objection. This Interrogatory is vague as to what information is being referenced. Subject to and without waiving the foregoing objection, I do not recall the specific dates or personal information that was obtained from the Department of Transportation; however, I understand Plaintiffs have subpoenaed those records from the Department of Transportation. Generally, I began creating the Active Protestors List around June 5, 2020, and last edited it around January of 2021. *SEE also* Dominick Ratkowski's deposition testimony of July 27, 2021.**
- b. **Objection. This Interrogatory is vague as to what information is being referenced. Subject to and without waiving the foregoing objection, I do not recall the specific dates or personal information that was obtained from the Department of Transportation; however, I understand Plaintiffs have subpoenaed those records from the Department of Transportation. *SEE also* Dominick Ratkowski's deposition testimony of July 27, 2021.**
- c. **Objection. This Interrogatory is vague as to what information is being referenced. Subject to and without waiving the foregoing objection, any information obtained from the Department of Transportation for any person on the Active Protestors List was always obtained for law enforcement purposes. *SEE also* Dominick Ratkowski's deposition testimony of July 27, 2021 (pages 82-85, 101, 105, 113, 118, and 125).**
- d. **Objection. This Interrogatory is vague as to what information is being referenced. Subject to and without waiving the foregoing objection, information regarding disclosure of the Active Protestors List was previously provided *SEE* Defendants' Response to Plaintiffs' First Requests for Admissions and Interrogatories, Interrogatory No. 2, dated July 26, 2021 and Supplemental Response dated 09/10/2021, along with previously produced documents Bates labeled DEFS' RPD 14036 – 14069 and DEFS' RPD 14525 – 15007. *SEE also* Dominick Ratkowski's deposition testimony**

of July 27, 2021.

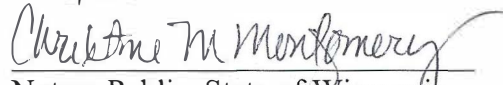
- e. **Objection.** This Interrogatory is vague as to what information is being referenced. Subject to and without waiving the foregoing objection, information on the Active Protestors List was always disclosed by me for law enforcement purposes. *SEE* also Dominick Ratkowski's deposition testimony of July 27, 2021 (pages 82-85, 101, 105, 113, 118, and 125).

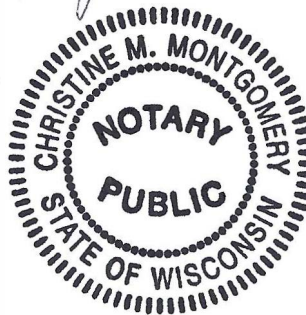
Dated this 4th day of November, 2022.

AS TO INTERROGATORY NOS. 1, 4, and 6 – 8


On behalf of the City of Wauwatosa

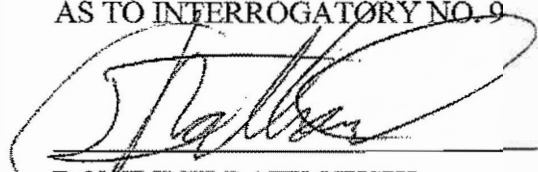
Subscribed and sworn to before me
this 4th day of November, 2022.


Notary Public, State of Wisconsin
My Commission expires 08/23/2025

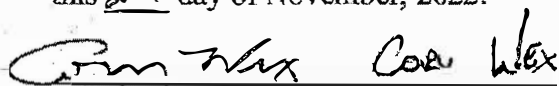


Dated this 2 day of November, 2022.

AS TO INTERROGATORY NO. 9


DOMINICK RATKOWSKI

Subscribed and sworn to before me
this 2nd day of November, 2022.


Notary Public, State of Wisconsin
My Commission expires 02-14-2025

Dated this ~~3rd~~ day of November, 2022.

AS TO INTERROGATORY NO. 2,¹ 3, and 5

Dennis R. McBride

DENNIS R. McBRIDE

Subscribed and sworn to before me
this ____ day of November, 2022.

Notary Public, State of Wisconsin
My Commission expires _____

Dated this 4th day of November 2022.

AS TO OBJECTIONS, REQUESTS FOR
ADMISSION, and REQUEST FOR
PRODUCTION

WIRTH + BAYNARD
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Signature: Dennis R. McBride
Dennis R. McBride (Nov 3, 2022 15:29 CDT)

Email: dmcbride@wauwatosa.net

¹ Interrogatory Nos. 2 and 5 are answered on behalf of the City.